

HOUSE BILL 2813

By Odom

AN ACT to amend Tennessee Code Annotated, Title 40,  
Chapter 35, relative to sentencing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The General Assembly finds and declares that deterrence and punishment of violent crime is a matter of compelling public interest that requires the highest priority in allocating scarce public resources for imprisonment. To make prison space available to ensure that these violent offenders serve a sentence of sufficient length to remove them as a threat to society and to deter others from committing these offenses, it is in the public's best interest that certain non-violent property offenders currently serving prison sentences for less serious offenses be given alternative sentences not involving incarceration. By doing so, the property offenders are able to work in order to pay restitution to the victims of their crimes without threatening public safety thereby permitting longer sentences for those offenders who do threaten public safety.

SECTION 2. Tennessee Code Annotated, Title 40, Chapter 35, Part 1, is amended by adding the following as a new section:

Section 40-35-122

(a) Notwithstanding any provision of law to the contrary, except as provided in subsection (b), a judge sentencing a defendant convicted on or after July 1, 2010, of any non-violent property offense, as defined in subsection (d), shall not be authorized to impose the sentencing alternatives of continuous confinement in a local jail or the department of correction as set out in § 40-35-104(c)(5), (c)(6), or (c)(8). The judge may sentence the defendant to any other

sentencing alternative set out in § 40-35-104(c), including a sentence to community corrections, probation, pre-trial diversion or judicial diversion.

(b) A defendant convicted of an offense set out in subsection (d) may be sentenced to a period of continuous confinement if, after a hearing, the sentencing court determines that the defendant has multiple convictions for any of such offenses and is not a suitable candidate for community corrections, probation, pre-trial diversion or judicial diversion.

(c) A defendant who is being sentenced for both the commission of an offense set out in subsection (d) and some other offense or offenses may be sentenced to a period of continuous confinement for any or all of such other offense or offenses.

(d) As used in this section, a “non-violent property offense” is:

(1) Forgery under § 39-14-114, where the amount of the forgery is less than one thousand dollars (\$1,000);

(2) Attempted forgery under §§ 39-12-101 and 39-14-114, where the amount of the forgery is one thousand dollars (\$1,000) or more but less than ten thousand dollars (\$10,000);

(3) Criminal simulation under § 39-14-115;

(4) Attempted criminal simulation under §§ 39-12-101 and 39-14-115, where the amount is one thousand dollars (\$1,000) or more but less than ten thousand dollars (\$10,000);

(5) Facilitating criminal simulation under §§ 39-11-403 and 39-14-115, where the amount is one thousand dollars (\$1,000) or more but less than ten thousand dollars (\$10,000);

(6) Felony theft of services under § 39-14-104, where the amount of the theft is less than one thousand dollars (\$1,000);

(7) Shoplifting under §§ 39-14-103 or 39-14-146;

(8) Felony fraudulent use of a credit card under § 39-14-118, where the amount of the theft is less than one thousand dollars (\$1,000);

(9) Felony passing worthless checks under § 39-14-121 where the amount of the check is less than one thousand dollars (\$1,000);

(10) Passing forged checks under § 39-14-114;

(11) Felony theft of property under § 39-14-103, where the amount of the theft is less than one thousand dollars (\$1,000);

(12) Attempted theft of property under §§ 39-12-101 and 39-14-103, where the amount of the attempted theft is one thousand dollars (\$1,000) or more but less than ten thousand dollars (\$10,000);

(13) Facilitating the theft of property under §§ 39-11-403 and 39-14-103, where the amount of the property is one thousand dollars (\$1,000) or more but less than ten thousand dollars (\$10,000);

(14) Conspiracy to commit theft of property under §§ 39-12-103 and 39-14-103, where the amount of the property is one thousand dollars (\$1,000) or more but less than ten thousand dollars (\$10,000);

(15) Felony vandalism under § 39-14-408, where the amount of the vandalism is less than one thousand dollars (\$1,000);

(16) Fraudulent transfer of a motor vehicle under § 39-14-147;

(17) Attempted burglary other than a habitation under §§ 39-12-101 and 39-14-402(a)(1), (a)(2) or (a)(3);

(18) Burglary of an auto under § 39-14-402(a)(4); and

(19) Burning personal property under § 39-14-303.

SECTION 3. Tennessee Code Annotated, Section 40-35-501, is amended by adding the following new subdivision to subsection (i)(2):

( ) Aggravated robbery under § 39-13-402(a)(1);

SECTION 4. This act shall take effect July 1, 2010, the public welfare requiring it.